

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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DISTRICT OF MASS.

CHARLES LANGONE, as FUND MANAGER )  
of the NEW ENGLAND TEAMSTERS AND )  
TRUCKING INDUSTRY PENSION FUND )

Plaintiff, )

v. )

ATLAS INDUSTRIAL FENCE CO. )

Defendant, )

C.A. No. 04cv10317 MEL

**PLAINTIFF'S MOTION FOR A DEFAULT JUDGMENT**

Plaintiff respectfully moves upon his attached Declaration pursuant to Federal Rule of Civil Procedure 55(b)(1) for entry of judgment by the Clerk in the amount of \$7,580.59. In support of his motion, Plaintiff states as follows:

1. Defendant neither filed an answer nor served a responsive pleading in this action and, accordingly, was defaulted on March 25, 2004.

2. This is an action under the Employee Retirement Income Security Act, 29 U.S.C. § 1001 *et seq.* for unpaid pension contributions. Pursuant to ERISA § 515, 29 U.S.C. § 1145, and ERISA § 502, 29 U.S.C. § 1132(g), the following elements of relief are mandatory for failure to make pension contributions:

- (a) the unpaid contributions,
- (b) the interest on the unpaid contributions,
- (c) an amount equal to the greater of--
  - (i) interest on the unpaid contributions, or
  - (ii) liquidated damages provided for under the plan in an amount not in excess of 20 percent (or such higher percentage as may be permitted under Federal or State law) of the amount determined by the court under subparagraph (a),
- (d) reasonable attorney's fees and costs of the action, to be paid by the defendant, and
- (e) such other legal or equitable relief as the court deems appropriate.

3. Defendant in this action became liable for delinquent contributions in the amount of \$3,440.25 for the period of January 1, 2001 through May 31, 2003 pursuant to Audit #5122, performed on June 26, 2003, and late fees and underpayments in the amount of \$2,099.50. Plaintiff is also entitled to interest in the amount of \$137.60, liquidated damages in the amount of \$1,107.95, and costs and attorneys fees in the amount of \$792.29 (Declaration of Damages, Charles Langone, ¶2; Affidavit of Catherine M. Campbell, ¶ 2). The total amount due is \$7,580.59.

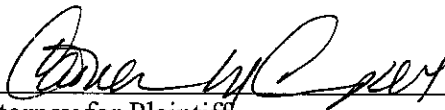
4. Defendant is neither an infant nor an incompetent person nor in the military service of the United States.

WHEREFORE, Plaintiff's Motion for Entry of a Default Judgment should be granted.

Dated: April 1, 2004

Respectfully submitted,

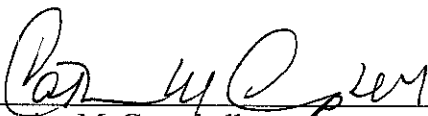
Catherine M. Campbell, Esquire  
BBO# 549397  
Feinberg, Campbell & Zack, P.C.  
177 Milk Street  
Boston, MA 02109

  
Attorney for Plaintiff,  
Charles Langone

Certificate of Service

I, Catherine M. Campbell, attorney for the plaintiff, hereby certify that on this day I mailed a copy of the within document by first class mail, postage prepaid, to Jeffrey Hellman, Zeisler & Zeisler, PC, 558 Clinton Avenue, Bridgeport, Ct 06605.

Date: April 1, 2004

  
Catherine M. Campbell